



2025:DHC:8407



IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 22.09.2025

+ **CRL.A. 261/2025**

STATE

..... Appellant

versus

PRATEEK KATHPALIA

..... Respondent

Advocates who appeared in this case:

For the Appellant : Ms. Richa Dhawan, APP for the State
SI Sanjeev Kumar, PS-Janak Puri

For the Respondent : Mr. Anish Kumar Singh, Adv. with
respondent in person

CORAM

HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present appeal has been filed challenging the judgment dated 10.05.2018 (hereafter '**impugned judgment**'), in Sessions Case No. 73172/2016 arising out of FIR No. 202/2011, registered at Police Station Janakpuri, whereby the learned Trial Court acquitted the accused/respondent for the offences under Sections 279/338 of the Indian Penal Code, 1860 ('**IPC**').



2025:DHC:8407



2. The brief facts are that on 29.06.2011 at around 3:00 p.m., the complainant Lt. Col. Renu Kumari while riding her scooty bearing No. DL-4SAK-7160 was allegedly hit by a car bearing No. HR-26-BE-2510 being driven by the accused/respondent in a rash and negligent manner.
3. It is alleged that due to the impact, the complainant was thrown off from her scooty and sustained grievous injuries on her left shoulder and knee, whereafter, the complainant was taken to Army Base Hospital.
4. The police after recording the statement of the complainant, registered FIR No. 202/2011 under Sections 279/337 of the IPC.
5. Subsequently, the accused/respondent was arrested in the present case. The learned Trial Court *vide* order dated 03.03.2012 framed charges under Sections 279/338 of the IPC against the accused/respondent to which he pleaded not guilty and claimed trial.
6. The accused/respondent in his statement under Section 313 of the Code of Criminal Procedure, 1973 ('CrPC'), denied the entire evidence against him and stated that he has been falsely implicated in the present case.
7. The learned Trial Court, noting that the prosecution failed to prove the case beyond reasonable doubt against the accused/respondent, acquitted him by the impugned judgment.



2025:DHC:8407



8. The learned Additional Public Prosecutor for the State submitted that the learned Trial Court failed to appreciate the testimony of the eye-witness.

9. She submitted that the learned Trial Court erred in acquitting the accused/respondent on the basis of minor discrepancies in the statements of the prosecution witnesses.

10. *Per contra*, the learned counsel for the accused/respondent vehemently opposed the arguments raised by the learned Additional Public Prosecutor for the State. He consequently prayed that the present appeal be dismissed.

11. I have heard the learned counsel for the parties and perused the record.

Analysis

12. It is trite that for the offences under Sections 279/337 of the IPC, the prosecution must establish that the accused was driving the vehicle in a manner so rash or negligent as to endanger human life or personal safety of others.

13. In the case of ***Ravi Kapur v. State of Rajasthan : (2012) 9 SCC 284***, the Hon'ble Apex Court while examining the scope of Section 279 of the IPC, and the meaning of the term "negligence" observed as under:

"12. Rash and negligent driving has to be examined in the light of the facts and circumstances of a given case. It is a fact incapable of being construed or seen in isolation. It must be examined in light of the attendant circumstances. A person who drives a vehicle on the road is liable to be held responsible for the act as well as for the result. It may not be always possible to determine



2025:DHC:8407



with reference to the speed of a vehicle whether a person was driving rashly and negligently. Both these acts presuppose an abnormal conduct. Even when one is driving a vehicle at a slow speed but recklessly and negligently, it would amount to “rash and negligent driving” within the meaning of the language of Section 279 IPC. That is why the legislature in its wisdom has used the words “manner so rash or negligent as to endanger human life”. The preliminary conditions, thus, are that (a) it is the manner in which the vehicle is driven; (b) it be driven either rashly or negligently; and (c) such rash or negligent driving should be such as to endanger human life. Once these ingredients are satisfied, the penalty contemplated under Section 279 IPC is attracted.

“Negligence” means omission to do something which a reasonable and prudent person guided by the considerations which ordinarily regulate human affairs would do or doing something which a prudent and reasonable person guided by similar considerations would not do. Negligence is not an absolute term but is a relative one; it is rather a comparative term. It is difficult to state with precision any mathematically exact formula by which negligence or lack of it can be infallibly measured in a given case. Whether there exists negligence per se or the course of conduct amounts to negligence will normally depend upon the attending and surrounding facts and circumstances which have to be taken into consideration by the court. In a given case, even not doing what one was ought to do can constitute negligence.”

14. The learned Trial Court *vide* the impugned judgment acquitted the accused/respondent of the alleged offences on the ground that the prosecution had failed to prove the case against him beyond reasonable doubt.

15. PW-1, complainant in her examination-in-chief deposed on the lines of her statement recorded at the time of registration of FIR. She stated that the accused/respondent had hit the scooty from the back side due to which she sustained grievous injuries on her left shoulder



2025:DHC:8407



and knee. She further stated that one person namely, Nitish followed the offending vehicle and brought the accused/respondent to the spot of the alleged incident.

16. PW-3, eye-witness Nitish during his examination-in-chief deposed that on 29.06.2011 he saw the accused/respondent driving his car in a rash and negligent manner, due to which, he had hit a scooty which was being driven by the complainant and thereafter fled away from the spot, whereafter, he started following the accused/respondent and brought him back to the spot of the incident.

17. He further stated that the accused/respondent tried to compensate the complainant, however, she refused and after some time the police reached the spot of the accident and the accused/respondent was handed over to the police.

18. During cross-examination, Nitish reaffirmed the fact that the offending vehicle was being driven by the accused/respondent in a rash and negligent manner and that he had apprehended the accused/respondent and brought him back to the spot of the accident.

19. The learned Trial Court after appreciating the testimonies of the prosecution witnesses noted that the prosecution had failed to prove the fact that the accused/respondent at the time of the alleged incident was driving the offending vehicle in a rash and negligent manner.

20. From a perusal of the aforesaid testimonies, it is undisputed that the offending vehicle had hit the scooty of the complainant from the back side. Thus, if the scooty of the complainant was hit from the back



2025:DHC:8407



side, how was the complainant able to see whether the accused/respondent was driving the car in a rash and negligent manner, the same casts a doubt in the story as alleged by the complainant.

21. Further, neither in the testimony of the complainant nor in the testimony of the eye-witness Nitish is there any averment regarding the speed of the offending vehicle. Merely stating that the offending vehicle was being driven by the accused/respondent in a rash and negligent manner is not enough to prove the alleged offences against the accused/respondent. No evidence has been led to show as to in what manner the accused was driving, which was construed as rash and negligent.

22. PW-6, Assistant Sub-Inspector Devender Kumar who had mechanically inspected the offending vehicle as well as the scooty of the complainant proved the mechanical inspection report filed before the learned Trial Court. He stated that the scooty of the complainant had been damaged only from the left side and there was no other damage on any other part.

23. From a perusal of the machinal inspection report filed before the learned Trial Court it can be seen that the scooty is only damaged from the left side and the same is corroborated with the statement of the of PW-6 as noted above.

24. Therefore, if the scooty of the complainant was hit from the back side by the offending vehicle, some damage ought to have also



2025:DHC:8407



been made to the back side of the scooty at the time of the alleged offence, the same thus casts a doubt on the story as alleged by the prosecution.

25. A person cannot be convicted for an offence of driving in a rash and negligent manner to endanger human life only for the reason that his vehicle had hit the other vehicle which led to injuries. The same needs to be proved with evidence of the vehicle being driven in a rash and negligent manner and merely stating is not sufficient.

26. In view of the aforesaid discussion, this Court is of the opinion that the learned Trial Court rightly acquitted the accused/respondent. There is no infirmity in the impugned judgment passed by the learned Trial Court to warrant any interference.

27. In the present case, it is undisputed that the accused/respondent was driving the offending vehicle at the time of the alleged incident. Eye-witness categorically deposed that he saw the accused/respondent hit the scooty of the complainant thereby tried fleeing from the spot of the incident.

28. In the opinion of this Court, the fact that the accused/respondent fled away from the spot after the alleged incident can be for many reasons. It is human tendency to run away in such circumstances on the ground of fear from the public. However, as noted above merely stating that the accused/respondent was driving the vehicle in a rash and negligent manner cannot be enough to set any liability on the accused/respondent.



2025:DHC:8407



29. It is pertinent to note, that the complainant in the present case was an Army Veteran and due to the alleged incident had received injuries on her left shoulder and knee.

30. This Court by order dated 24.07.2025 had issued Court notice to the complainant to ascertain if any sort of compensation ought to be paid to her, however, the victim refused to accept court notice on the ground that she does not wish to pursue the proceedings arising out of the present case as the same had got over long back.

31. The alleged accident is stated to have happened more than 14 years back and injuries were caused to the complainant due to the same. The accused/respondent was present in Court and was willing to compensate the complainant on account of the injuries suffered by the victim due to the alleged incident.

32. In view of the above, the accused/respondent is directed to pay a sum of ₹30,000/- to the complainant within a period of six weeks.

33. Let the proof of deposit of cost be submitted with the concerned IO/SHO.

34. The present appeal is disposed of in the aforesaid terms. Pending Application(s), if any, also stand disposed of.

AMIT MAHAJAN, J

SEPTEMBER 22, 2025

“SS”